

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JOSEPH ANDREW HYLKEMA,

Plaintiff,

v.

PALISADES COLLECTION, LLC, *et al.*,

Defendants.

Case No. C07-1679RSL

ORDER GRANTING  
DEFENDANTS' MOTION  
TO AMEND

This matter comes before the Court on defendants' motion to amend their counterclaim for attorney's fees and costs under 15 U.S.C. § 1692k(3). Defendants seek to add additional support for their counterclaim that plaintiff has brought this action in bad faith and for the purpose of harassment.

Leave to amend "shall be freely given when justice so requires." Fed. R. Civ. P. 15(a). The Court considers four factors in deciding whether to grant leave to amend: "bad faith, undue delay, prejudice to the opposing party, and the futility of amendment." Kaplan v. Rose, 49 F.3d 1363, 1370 (9th Cir. 1994). Plaintiff argues that defendants' proposed amendment would be futile. A proposed amendment is futile if it could be defeated by a motion to dismiss or if the party cannot prevail on the merits. See, e.g.,

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1 Smith v. Commanding Officer, 555 F.2d 234, 235 (9th Cir. 1977).

2 The Court does not find that the proposed amendment would be futile. To the  
3 contrary, there appears to be evidence to support defendants' contention that plaintiff has  
4 brought this action in bad faith and for the purpose of harassment.

5 Accordingly, defendants' motion to amend their counterclaim (Dkt. #9) is  
6 GRANTED. Consistent with this order, defendants may file an amended answer,  
7 affirmative defenses, and counterclaim in the docket within ten days of the date of this  
8 order.

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10 DATED this 15th day of January, 2008.

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13 Robert S. Lasnik  
14 United States District Judge  
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